

DEPARTMENT of the INTERIOR

FISH AND WILDLIFE SERVICE

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PESTICIDE PLANT FINED FOR MIGRATORY BIRD VIOLATIONS

The first major corporation to be convicted by jury trial for violations of the Migratory Bird Treaty Act was fined \$500 on August 10, 1977, the Interior Department's U.S. Fish and Wildlife Service Director, Lynn A. Greenwalt, announced today.

FMC Corporation, a pesticide manufacturing plant in Middleport, New York, was sentenced by Judge John T. Curtin of the U.S. District Court, Western District of New York. He called the prosecution a public service and remarked on the importance of the case in the area of the environment and conservation.

FMC was convicted on July 1, 1977, on 18 counts for the deaths of 23 birds attracted to the company's 10-acre toxic, waste-water pond. The corporation was fined \$100 per count; however, Judge Curtin reduced the fine to \$500 in light of the fact that FMC had spent over \$4 million to alleviate the problem.

The conviction resulted from a 3-month investigation--with continuous spot checks over a 2-year period--by special agents of the U.S. Fish and Wildlife Service. In May 1975, agents were advised by Dr. Ward Stone, a New York State wildlife pathologist with the Department of Environmental Conservation, that extensive bird mortalities were occurring in FMC's 10-acre lagoon. Agents inspected the area and found 92 dead birds, as well as numerous other carcasses. It is estimated that during the spring migration of 1975, thousands of migratory birds--including sandpipers, mourning doves, killdeer, Canada geese, and various ducks--were killed from the toxins in the waste water. Dr. Stone testified at the trial that the toxin level was so high that a normal drink would probably be lethal to most birds and that mere bathing in the pond, attractive to birds because of its layout, would result in the de-oiling of feathers and absorption of poisons through the skin.

During the course of the investigation, special agents worked continually with FMC on measures to alleviate the situation--including scare devices, armed guards, and netting. Eventually FMC eliminated the lagoon and installed a filtration system and a surface water treatment plant.

The Migratory Bird Treaty Act makes it unlawful to kill most migratory game and nongame birds. It carries maximum penalties of \$500 and 6 months imprisonment per count.

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